

15 MAR 2006

#6



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Thomas Tarolli
Tarolli, Sundheim, Covell, & Tummino, LLP
526 Superior Avenue
Suite 1111
Cleveland, OH 44114

In re Application of	:	
WANY et al.	:	
U.S. Application No.: 10/533,682	:	DECISION ON PETITION
PCT No.: PCT/CH03/00704	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 28 October 2003	:	
Priority Date: 29 October 2002	:	
Attorney Docket No.: HU-7638	:	
For: OPTOELECTRONIC SENSOR	:	

This decision is in response to applicants' "Petition under 37 CFR 1.47(a) to File Application with Inventor who Refuses to Sign" filed 07 December 2005 to accept the application without the signature of joint-inventor, Martin Wany.

BACKGROUND

On 28 October 2003, applicants filed international application PCT/CH03/00704 which claimed a priority date of 29 October 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 May 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 29 April 2005.

On 27 April 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, *inter alia*: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment; and an information disclosure statement.

On 19 September 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 07 December 2005, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1) - (4) have been satisfied.

A review of the present petition reveals that applicant has satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Martin Wany. The steps taken are sufficient to show that the nonsigning inventor refuses to execute the application. Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is GRANTED.

The application will be given an international filing date of 28 October 2003 under 35 U.S.C. 363, and a date of **07 December 2005** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.


Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459



15 MAR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Martin Wany
Trv. Dos Piornais
Edf. Famoso Bloco F
Appt CT
9000-246 Funchal
Portugal

In re Application of
WANY et al.
U.S. Application No.: 10/533,682
PCT No.: PCT/CH03/00704
Int. Filing Date: 28 October 2003
Priority Date: 29 October 2002
Attorney Docket No.: HU-7638
For: OPTOELECTRONIC SENSOR

Dear Mr. Wany:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

Counsel of Record:
Tarolli, Sundheim, Covell, & Tummino, LLP
526 Superior Avenue
Suite 1111
Cleveland, OH 44114